

**IN THE UNITED STATES DISTRICT COURT
OF THE DISTRICT OF COLUMBIA**

BUZZFEED INC.,
111 East 18th Street, 13th Floor
New York, NY 10003

Plaintiff,

v.

**U.S. DEPARTMENT OF HOMELAND
SECURITY,**
2707 Martin Luther King Jr. Avenue SE
Washington, D.C. 20528

**U.S. CUSTOMS AND BORDER
PROTECTION,**
1300 Pennsylvania Ave NW
Washington, D.C. 20229

Defendants.

Case No. 19-cv-3062

COMPLAINT

1. Plaintiff, BUZZFEED INC., brings this Freedom of Information Act suit to force Defendants U.S. DEPARTMENT OF HOMELAND SECURITY and U.S. CUSTOMS AND BORDER PROTECTION to produce records pertaining to Border Patrol's custody databases that the DHS Office of Inspector General used in a specific memorandum regarding dangerous overcrowding in Rio Grande Valley Detention Center.

PARTIES

2. Plaintiff BUZZFEED INC. is a member of the media and made the FOIA requests at issue in this case.

3. Defendant U.S. DEPARTMENT OF HOMELAND SECURITY ("DHS") is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552.

4. Defendant U.S. CUSTOMS AND BORDER PROTECTION (“CBP”) is a component of DHS and is subject to the Freedom of Information Act, 5 U.S.C. § 552.

JURISDICTION AND VENUE

5. This case is brought under 5 U.S.C. § 552(a)(4)(B) and presents a federal question conferring jurisdiction on this Court. *See* 28 U.S.C. § 1331.

6. Venue is proper under 5 U.S.C. § 552(a)(4)(B).

JULY 3, 2019, FOIA REQUEST

7. On July 3, 2019, BUZZFEED submitted a FOIA request to CBP for any and all databases containing records that DHS Office of Inspector General used in a specific memorandum: “In addition to the overcrowding we observed, Border Patrol’s custody data indicates that 826 (31 percent) of the 2,699 children at these facilities had been held longer than the 72 hours generally permitted under the TEDS standards and the Flores Agreement.” Office of Inspector General, U.S. Department of Homeland Security, OIG-19-51, Management Alert – DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley (Jul. 2, 2017) at 5. Exhibit A.

8. BUZZFEED also requested expedited processing and a fee waiver for this request. Exhibit A.

9. On September 3, 2019, CBP acknowledged receipt of the request and assigned CBP-2019-065391 to the matter. CBP also sought an extension. Exhibit B.

10. On September 11, 2019, CBP notified BUZZFEED that expedited processing has been granted. Exhibit C.

11. Under District case law, when expedited processing is granted, there is a rebuttable presumption that the records will be processed no later than the statutory deadline for regular requests, which has expired.

12. As the date of this filing, CBP has not issued a determination and has produced no records responsive to the request.

COUNT I – CBP’S FOIA VIOLATION

13. The above paragraphs are incorporated herein.

14. CBP is a component of DHS and is subject to FOIA.

15. The requested records are not exempt under FOIA.

16. CBP has refused to produce the requested materials in a timely manner.

WHEREFORE, Plaintiff asks the Court to:

- i. declare that Defendants have violated FOIA;
- ii. order Defendants to conduct a reasonable search for records and to produce the requested records;
- iii. enjoin Defendants from withholding non-exempt public records under FOIA;
- iv. award Plaintiff attorneys’ fees and costs;
- v. award such other relief the Court considers appropriate.

Dated: October 14, 2019

RESPECTFULLY SUBMITTED,

/s/ Matthew V. Topic_____

Attorney for Plaintiff

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